

Bill No. SB 2184

Barcode 624784

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Campbell) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (d) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.--

(2)

~~(d) No presumption shall arise in favor of or against a request to relocate when a primary residential parent seeks to move the child and the move will materially affect the current schedule of contact and access with the secondary residential parent. In making a determination as to whether the primary residential parent may relocate with a child, the court must consider the following factors:~~

~~1. Whether the move would be likely to improve the general quality of life for both the residential parent and~~

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1 ~~the child.~~

2 ~~2. The extent to which visitation rights have been~~  
3 ~~allowed and exercised.~~

4 ~~3. Whether the primary residential parent, once out of~~  
5 ~~the jurisdiction, will be likely to comply with any substitute~~  
6 ~~visitation arrangements.~~

7 ~~4. Whether the substitute visitation will be adequate~~  
8 ~~to foster a continuing meaningful relationship between the~~  
9 ~~child and the secondary residential parent.~~

10 ~~5. Whether the cost of transportation is financially~~  
11 ~~affordable by one or both parties.~~

12 ~~6. Whether the move is in the best interests of the~~  
13 ~~child.~~

14 Section 2. Section 61.13001, Florida Statutes, is  
15 created to read:

16 61.13001 Parental relocation with a child.--

17 (1) DEFINITIONS.--As used in this section:

18 (a) "Change of residence address" means the relocation  
19 of a child to a primary residence more than 50 miles away from  
20 his or her current primary place of residence. However, the  
21 relocation of a child's primary residence to a location that  
22 is closer to or less than 50 miles from the non-residential  
23 parent is not a change of residence address.

24 (b) "Child" means any person who is under the  
25 jurisdiction of a state court pursuant to the Uniform Child  
26 Custody Jurisdiction and Enforcement Act or is the subject of  
27 any order granting to a parent or other person any right to  
28 residential care, custody, or visitation as provided under  
29 state law.

30 (c) "Court" means the circuit court in an original  
31 proceeding which has proper venue and jurisdiction in

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1 accordance with the Uniform Child Custody Jurisdiction and  
2 Enforcement Act, the circuit court in the county in which  
3 either parent and the child reside, or the circuit court in  
4 which the original action was adjudicated.

5 (d) "Other person" means an individual who is not the  
6 parent and who, by court order, maintains the primary  
7 residence of a child or has visitation rights with a child.

8 (e) "Parent" means any person so named by court order  
9 or express written agreement that is subject to court  
10 enforcement or a person reflected as a parent on a birth  
11 certificate and in whose home a child maintains a primary or  
12 secondary residence.

13 (f) "Primary residential parent" means a person so  
14 designated by court order or by an express written agreement  
15 that is subject to court enforcement or a person seeking such  
16 a designation, or, when neither parent has been designated as  
17 primary residential parent, the person seeking to relocate  
18 with a child.

19 (g) "Principal or primary residence of a child" means  
20 the home of the designated primary residential parent. For  
21 purposes of this section only, when rotating custody is in  
22 effect, each parent shall be considered to be the primary  
23 residential parent.

24 (h) "Relocation" means a change of residence address  
25 of a child for a period of 60 consecutive days or more but  
26 does not include a temporary absence from the principal  
27 residence for purposes of vacation, education, or the  
28 provision of health care for the child.

29 (2) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--A  
30 parent who is entitled to primary residence of the child shall  
31 notify the other parent, and every other person entitled to

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1 visitation with the child, of a proposed relocation of the  
2 child's principal residence. The form of notice shall be  
3 according to this section:

4 (a) The parent seeking to relocate shall prepare a  
5 Notice of Intent to Relocate. The following information must  
6 be included with the Notice of Intent to Relocate and signed  
7 under oath under penalty of perjury:

8 1. A description of the location of the intended new  
9 residence, including the state, city, and specific physical  
10 address, if known.

11 2. The mailing address of the intended new residence,  
12 if not the same as the physical address, if known.

13 3. The home telephone number of the intended new  
14 residence, if known.

15 4. The date of the intended move or proposed  
16 relocation.

17 5. A detailed statement of the specific reasons for  
18 the proposed relocation of the child. If one of the reasons is  
19 based upon a job offer which has been reduced to writing, that  
20 written job offer must be attached to the Notice of Intent to  
21 Relocate.

22 6. A proposal for a revised postrelocation schedule of  
23 visitation with the child.

24 7. Substantially the following statement, in all  
25 capital letters and in the same size type, or larger, as the  
26 type in the remainder of the notice:

27  
28 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN  
29 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR  
30 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE  
31 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY

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1 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED  
2 WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

3 8. The mailing address of the parent or other person  
4 seeking to relocate to which the objection filed under  
5 subsection (4) to the Notice of Intent to Relocate should be  
6 sent.

7  
8 The contents of the Notice of Intent to Relocate are not  
9 privileged. For purposes of encouraging amicable resolution of  
10 the relocation issue, a copy of the Notice of Intent to  
11 Relocate shall initially not be filed with the court but  
12 instead served upon the nonrelocating parent, other person,  
13 and every other person entitled to visitation with the child,  
14 and the original thereof shall be maintained by the parent or  
15 other person seeking to relocate.

16 (b) The parent seeking to relocate shall also prepare  
17 a Certificate of Filing Notice of Intent to Relocate. The  
18 certificate shall certify the date that the Notice of Intent  
19 to Relocate was served on the other parent and on every other  
20 person entitled to visitation with the child.

21 (c) The Notice of Intent to Relocate, and the  
22 Certificate of Filing Notice of Intent to Relocate, shall be  
23 served on the other parent and on every other person entitled  
24 to visitation with the child. If there is a pending court  
25 action regarding the child, service of process may be  
26 according to court rule. Otherwise, service of process shall  
27 be according to chapters 48 and 49.

28 (d) A person giving notice of a proposed relocation or  
29 change of residence address under this section has a  
30 continuing duty to provide current and updated information  
31 required by this section when that information becomes known.

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1       (e) If the other parent and any other person entitled  
 2 to visitation with the child fails to timely file an  
 3 objection, the relocation shall be allowed and the court shall  
 4 enter an order. If an objection is timely filed, the burden  
 5 shifts to the parent or person seeking to relocate to initiate  
 6 court proceedings to obtain court permission to relocate prior  
 7 to doing so.

8       (f) The act of relocating the child after failure to  
 9 comply with the notice of intent to relocate procedure  
 10 described in this subsection subjects the party in violation  
 11 thereof to contempt and other proceedings to compel the return  
 12 of the child and may be taken into account by the court in any  
 13 initial or postjudgment action seeking a determination or  
 14 modification of residence, custody, or visitation with the  
 15 child as:

16           1. A factor in making a determination regarding the  
 17 relocation of a child.

18           2. A factor in determining whether residence or  
 19 contact, access, visitation, and time-sharing arrangements  
 20 should be modified.

21           3. A basis for ordering the temporary or permanent  
 22 return of the child.

23           4. Sufficient cause to order the parent or other  
 24 person seeking to relocate the child to pay reasonable  
 25 expenses and attorney's fees incurred by the party objecting  
 26 to the relocation.

27           5. For the award of reasonable attorney's fees and  
 28 costs, including interim travel expenses incident to  
 29 visitation or securing the return of the child.

30           (3) APPLICABILITY OF PUBLIC RECORDS LAW.--If the  
 31 parent or other person seeking to relocate a child, or the

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1 child, is entitled to prevent disclosure of location  
 2 information under any public records exemption applicable to  
 3 that person, the court may enter any order necessary to modify  
 4 the disclosure requirements of this section in compliance with  
 5 the public records exemption.

6 (4) CONTENT OF OBJECTION TO RELOCATION.--An objection  
 7 seeking to prevent the relocation of a child shall be verified  
 8 and served within 30 days after service of the Notice of  
 9 Intent to Relocate. The objection shall include the specific  
 10 factual basis supporting the reasons for seeking a prohibition  
 11 of the relocation, including a statement of the amount of  
 12 participation or involvement the objecting party currently has  
 13 or has had in the life of the child, and the existence of any  
 14 court order conflicting with this section.

15 (5) TEMPORARY ORDER.--

16 (a) The court may grant a temporary order restraining  
 17 the relocation of a child or ordering the return of the child,  
 18 if a relocation has previously taken place, or order other  
 19 appropriate remedial relief, if the court finds:

20 1. The required notice of a proposed relocation of a  
 21 child was not provided in a timely manner.

22 2. The child already has been relocated without notice  
 23 or written agreement of the parties or without court approval.

24 3. From an examination of the evidence presented at  
 25 the preliminary hearing that there is a likelihood that upon  
 26 final hearing the court will not approve the relocation of the  
 27 primary residence of the child.

28 (b) The court may grant a temporary order permitting  
 29 the relocation of the child pending final hearing if the  
 30 court:

31 1. Finds that the required Notice of Intent to

1 Relocate was provided in a timely manner.

2 2. Finds from an examination of the evidence presented  
3 at the preliminary hearing that there is a likelihood that on  
4 final hearing the court will approve the relocation of the  
5 primary residence of the child, which findings must be  
6 supported by the same factual basis as would be necessary to  
7 support the permitting of relocation in a final judgment.

8 (c) If the court has issued a temporary order  
9 authorizing a party seeking to relocate or move a child before  
10 a final judgment is rendered, the court may not give any  
11 weight to the temporary relocation as a factor in reaching its  
12 final decision.

13 (d) If temporary relocation of a child is permitted,  
14 the court may require the person relocating the child to  
15 provide reasonable security, financial or otherwise, and  
16 guarantee that the court-ordered contact with the child will  
17 not be interrupted or interfered with by the relocating party.

18 (6) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED  
19 RELOCATION.--No presumption shall arise in favor of or against  
20 a request to relocate with the child when a primary  
21 residential parent seeks to move the child and the move will  
22 materially affect the current schedule of contact, access, and  
23 time-sharing with the nonrelocating parent or other person. In  
24 reaching its decision regarding a proposed temporary or  
25 permanent relocation, the court shall evaluate all of the  
26 following factors:

27 (a) The nature, quality, extent of involvement, and  
28 duration of the child's relationship with the parent proposing  
29 to relocate with the child and with the nonrelocating parent,  
30 other persons, siblings, half-siblings, and other significant  
31 persons in the child's life.



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1       (b) The age and developmental stage of the child, the  
2 needs of the child, and the likely impact the relocation will  
3 have on the child's physical, educational, and emotional  
4 development, taking into consideration any special needs of  
5 the child.

6       (c) The feasibility of preserving the relationship  
7 between the nonrelocating parent or other person and the child  
8 through substitute arrangements that take into consideration  
9 the logistics of contact, access, visitation, and time  
10 sharing, as well as the financial circumstances of the  
11 parties; whether those factors are sufficient to foster a  
12 continuing meaningful relationship between the child and the  
13 nonrelocating parent or other person; and the likelihood of  
14 compliance with the substitute arrangements by the relocating  
15 parent once he or she is out of the jurisdiction of the court.

16       (d) The child's preference, taking into consideration  
17 the age and maturity of the child.

18       (e) Whether the relocation will enhance the general  
19 quality of life for both the parent seeking the relocation and  
20 the child, including, but not limited to, financial or  
21 emotional benefits or educational opportunities.

22       (f) The reasons of each parent or other person for  
23 seeking or opposing the relocation.

24       (g) The current employment and economic circumstances  
25 of each parent or other person and whether or not the proposed  
26 relocation is necessary to improve the economic circumstances  
27 of the parent or other person seeking relocation of the child.

28       (h) That the relocation is sought in good faith and  
29 the extent to which the objecting parent has fulfilled his or  
30 her financial obligations to the parent or other person  
31 seeking relocation, including child support, spousal support,

1 and marital property and marital debt obligations.

2 (i) The career and other opportunities available to  
3 the objecting parent or objecting other person if the  
4 relocation occurs.

5 (j) A history of substance abuse or domestic violence  
6 as defined in s. 741.28 or which meets the criteria of s.  
7 39.806(1)(d) by either parent, including a consideration of  
8 the severity of such conduct and the failure or success of any  
9 attempts at rehabilitation.

10 (k) Any other factor affecting the best interest of  
11 the child or as set forth in s. 61.13.

12 (7) BURDEN OF PROOF.--The parent or other person  
13 wishing to relocate has the burden of proof if an objection is  
14 filed and must then initiate a proceeding seeking court  
15 permission for relocation. The initial burden is on the parent  
16 or person wishing to relocate to prove by a preponderance of  
17 the evidence that relocation is in the best interest of the  
18 child. If that burden of proof is met, the burden shifts to  
19 the nonrelocating parent or other person to show by a  
20 preponderance of the evidence that the proposed relocation is  
21 not in the best interest of the child.

22 (8) ORDER REGARDING RELOCATION.--If relocation is  
23 permitted:

24 (a) The court may, in its discretion, order contact  
25 with the nonrelocating parent, including access, visitation,  
26 time sharing, telephone, Internet, web-cam, and other  
27 arrangements sufficient to ensure that the child has frequent,  
28 continuing, and meaningful contact, access, visitation, and  
29 time sharing with the nonrelocating parent or other persons,  
30 if contact is financially affordable and in the best interest  
31 of the child.

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1       (b) If applicable, the court shall specify how the  
 2 transportation costs will be allocated between the parents and  
 3 other persons entitled to contact, access, visitation, and  
 4 time sharing and may adjust the child support award, as  
 5 appropriate, considering the costs of transportation and the  
 6 respective net incomes of the parents in accordance with state  
 7 child support guidelines.

8       (9) PRIORITY FOR HEARING OR TRIAL.--An evidentiary  
 9 hearing or nonjury trial on a pleading seeking temporary or  
 10 permanent relief filed pursuant to this section shall be  
 11 accorded priority on the court's calendar.

12       (10) APPLICABILITY.--

13       (a) The provisions of this section apply:

14           1. Before July 1, 2006, if the existing order  
 15 providing for custody, primary residence, and visitation does  
 16 not expressly govern the relocation of the child.

17           2. To an order, whether temporary or permanent,  
 18 regarding residence of a child or visitation with a child  
 19 issued after July 1, 2006.

20           3. To any relocation or proposed relocation, whether  
 21 permanent or temporary, of a child during any proceeding  
 22 pending before July 1, 2006, wherein residence of or  
 23 visitation with a child is an issue.

24       (b) To the extent that a provision of this section  
 25 conflicts with an order, this section does not apply to the  
 26 extent of such conflict.

27       Section 3. This act shall take effect July 1, 2006.

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30 ===== T I T L E   A M E N D M E N T =====

31 And the title is amended as follows:

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1 Delete everything before the enacting clause

2

3 and insert:

4 A bill to be entitled

5 An act relating to parental relocation with a

6 child; amending s. 61.13, F.S.; deleting

7 standards for determining whether to allow a

8 primary residential parent to move a child;

9 creating s. 61.13001, F.S.; providing

10 definitions; providing for notification of

11 certain persons of the intent to relocate a

12 child and providing procedures therefor;

13 requiring certain information to be provided on

14 a Notice of Intent to Relocate; providing

15 procedures for objecting to the relocation of a

16 child; providing applicability of public

17 records law; providing for content of an

18 objection to relocation; authorizing the court

19 to grant a temporary order restraining the

20 relocation of a child under certain

21 circumstances; prohibiting certain presumptions

22 and requiring that certain factors be evaluated

23 by the court with regard to relocation of a

24 child; assigning the burden of proof in cases

25 of relocation of a child; authorizing the court

26 to order certain contact with the child by the

27 nonrelocating party; granting priority for

28 certain hearings and trials under s. 61.13001,

29 F.S.; providing applicability; providing an

30 effective date.

31